

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Robert Edward Maloney, Jr.,

Case No. 23-cv-532 (JRT/TNL)

Plaintiff,

v.

REPORT AND RECOMMENDATION

MEnD Correctional Care; Sherburne
County Jail; US Marshall Service; Dr.
Todd Leonard; Sheriff Joel Brott; Diana
VanDerBeek; and Wendy Zitzloff,

Defendants.

In an order dated April 10, 2023, this Court directed Plaintiff Robert Edward Maloney, Jr., to submit certified documentation from his prison trust account so that this Court could calculate his initial partial filing fee in accordance with 28 U.S.C. § 1915(b). *See* [ECF No. 3]. Plaintiff was given until May 1, 2023, to submit the required financial documents, failing which it would be recommended that this action be dismissed without prejudice for failure to prosecute. *See* Fed. R. Civ. P. 41(b).

That deadline has now passed, and Plaintiff has not submitted the required financial documentation. In fact, Plaintiff has not communicated with the Court about this case at all since commencing this action. Accordingly, this Court now recommends, in accordance with its prior order, that this action be dismissed without prejudice under Rule 41(b) for failure to prosecute. *See Henderson v. Renaissance Grand Hotel*, 267 Fed. App'x 496, 497 (8th Cir. 2008) (per curiam) (“A district court has discretion to dismiss an action under

Rule 41(b) for a plaintiff's failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.").

RECOMMENDATION

Based upon the foregoing, and on all of the files, records, and proceedings herein,
IT IS HEREBY RECOMMENDED that this action be **DISMISSED WITHOUT PREJUDICE** under Fed. R. Civ. P. 41(b) for failure to prosecute.

Dated: May 10, 2023

s/ Tony N. Leung
Tony N. Leung
United States Magistrate Judge
District of Minnesota

Maloney v. MEnD Correctional Care et al.
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NOTICE

Filing Objections: This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), "a party may file and serve specific written objections to a magistrate judge's proposed finding and recommendations within 14 days after being served a copy" of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. *See* Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).